Massachusetts Rules of
Superior Court

Including amendments effective

January 1, 2015

Massachusetts Trial Court
Law Libraries

Massachusetts Rules of the Superior Court

With amendments effective January 1, 2015.

Rules of Court Disclaimer

Massachusetts Rules of Superior Court

The Massachusetts Trial Court Law Libraries make every effort to provide a current, accurate copy of the rules of court on this site. However, this is not an official source for the rules, and the libraries cannot be held responsible for any errors or omissions contained on these pages. If you are concerned about the timeliness or accuracy of a rule, please consult one of the print sources for Massachusetts Rules of Court, or contact your nearest Trial Court Law Library for assistance. http:/www.mass.gov/lawlib

Print sources for rules:

- Annotated Laws of Massachusetts: Court Rules, LexisNexis, annual.
- Massachusetts General Laws Annotated, v.43A-43C, West Group, updated annually with pocket parts.
- Massachusetts Rules of Court, West Group, annual.
- The Rules, Lawyers Weekly Publications, loose-leaf.

Table of Contents

Rule 25. [Application of verdict to counts] *Repealed effective January 1, 2015.*

Rule 26. [Motions for judgment notwithstanding the verdict and for new trial. Hearing. Costs.] *Repealed effective January 1, 2015.*

Rule 27. [Pre-trial] *Repealed effective January 1, 2015.*

Rule 28 Repealed

Rule 29. Cover Sheet; Statement as to Damages

Rule 30. Interrogatories

Rule 30A. Motions for Discovery Orders

Rule 30B. Certification of Expert Disclosures.

Rule 31. [Dismissal of old actions] *Repealed effective January 1, 2015.*

Rule 32. Certain appearances prohibited

Rule 33. [Trial and hearing lists] *Repealed effective January 1, 2015.*

Rule 34. Engagements of counsel

Rule 35. [Certificates of Readiness and Trial lists] *Repealed effective January 1, 2015.*

Rule 36. [Preference on trial lists with jury in certain counties having more than one shire town] *Repealed effective January 1, 2015.*

Rules 37-42 Repealed

Rule 43. [Hearing in one county of cases from another] *Repealed effective January 1, 2015.*

Rule 44. [Hearing in Suffolk of cases from other counties] *Repealed effective January 1, 2015.*

Rule 45. [Hearing in Hampden of cases from Berkshire, Franklin and Hampshire] *Repealed effective January 1, 2015.*

Rule 46 Repealed

Rule 47. Filing of papers upon judgment

Rule 48. [Judgments and decrees after default for failure to appear in civil actions] *Repealed effective January 1, 2015.*

Special Provisions Relating to Masters, Receivers and Arbitrators

Rule 49. Masters

Rule 50. Exhibits (master's cases)

Rule 51. Receivers

Rule 52. [Reference to arbitration Award; objections and recommittal] *Repealed effective January 1, 2015.*

Special Provisions for Criminal Cases

Rule 53. Assignment of Counsel

Rule 54. Experts in criminal cases

Rule 55. Experts in criminal and delinquent children cases

Rule 56. Condition of probation

Rule 57. Term of probation

Rule 58. Term of orders for payment

Rule 59. Waiver of indictment

Rule 60. Plea of not guilty

Rule 61. Motions for return of property and to suppress evidence

Rule 61A. Motions for post-conviction relief

Rule 62. Withdrawal of appearance

Rule 63. Court reporter in grand jury proceedings

Rule 64. Appellate Division Procedure and forms

Rule 65. Claim of appeal

Rule 66. Repealed

General Provisions

Rule 1. Effect of These Rules

(Applicable to all cases)
The provisions of these rules, so far as they are the same as those of existing rules, shall be construed as a continuation thereof, and not as new provisions.
Unless a contrary intent appears, the word plaintiff shall include petitioner or libellant, and in criminal cases the Commonwealth, and the word defendant shall include respondent, libellee or co-respondent, and the word attorney or the word counsel shall include a party appearing or acting for himself.

Rule 2. Appearances

(Applicable to all cases)

The name, address, and telephone number of the attorney for every party, or of the party if no attorney appears for him, shall be entered on the docket as they appear upon the paper or papers constituting the appearance, or some paper transmitted to the clerk therewith. Where no address or telephone number of the attorney or party, as the case may be, appears upon the docket, notice to such party may be given by posting the same publicly in the clerk's office or in a room, hall or passage adjacent thereto. The clerk upon request shall post the same.
Amended June 26, 1980, effective September 1, 1980.

Rule 3. Authority to Appear

(Applicable to all cases)
The right of an attorney to appear for any party shall not be questioned by the opposite party, unless the objection be taken in writing within ten days after the appearance of such attorney, but the court may permit the objection to be taken later. When the authority of any attorney to appear for any party is demanded, if such attorney declares that he has been duly authorized to appear, by an application made directly to him by such party, or by some person whom he believes to have been authorized to employ him, such declaration shall be evidence of such authority.

Rule 4. Postponement

(Applicable to all cases)
The court need not entertain any motion for postponement, grounded on the want of material testimony, unless supported by an affidavit, which shall state (1) the name, and, if known, the residence, of the witness whose testimony is wanted, (2) the particular testimony which he is expected to give, with the grounds of such expectation, and (3) the endeavors and means that have been used to procure his attendance or deposition; to the end that the court may judge whether due diligence has been used for that purpose. The party objecting to the postponement shall not be allowed to contradict the statement of what the absent witness is expected to testify, but may disprove any other fact stated in such affidavit. Such motion will not ordinarily be granted if the adverse party will admit that the absent witness would, if present, testify as stated in the affidavit, and will agree that the same shall be received and considered as evidence at the trial or hearing, as though the witness were present and so testified; and such agreement shall be in writing, upon the affidavit, and signed by such adverse party or his attorney. The same rule shall apply, mutatis mutandis, when the motion is grounded on the want of any material document, thing or other evidence. In all cases the granting or denial of a motion for postponement shall be discretionary, whether the foregoing provisions have been complied with or not.
The court will not ordinarily grant a motion for postponement grounded on the absence of a material witness whom it is in the power of the moving party to summon, unless

such party has caused such witness to be regularly summoned and to be paid or tendered his travel and one day's attendance.

Rule 5. Jurors

(Applicable to all cases)

Persons summoned as jurors, who are excused because of any statutory exemption, shall be entitled to their fees for travel and attendance; but if excused for any other cause, or if service is postponed, it shall be on condition that no fee shall be allowed where no service is rendered, unless in any special case the court otherwise directs.

When practicable, excuses of jurors shall be presented under oath to the presiding justice in the session to which such jurors are summoned, or, where jurors are held in a central pool, to the justice in charge thereof.

If it is necessary to present such excuses before the return day of the venire, they shall be submitted to the justice assigned to sit in said session, if available, or, where jurors are held in a central pool, to the justice in charge thereof, or to the chief justice; and, if unavailable, by jurors in Suffolk to the justice presiding in the first session without jury; and by jurors in other counties to a justice holding court or resident in such county or an adjoining county. If any juror is excused in any place other than in open court, the justice excusing him shall forthwith notify the clerk of his action and the ground thereof. The word jurors in this rule shall include grand jurors.

Rule 6. Peremptory Challenges of Jurors

(Applicable to all cases)

The procedure in the matter of peremptory challenges of jurors, except when an individual voir dire is conducted, shall be as follows, unless specially otherwise ordered in a particular case. The jurors shall first be called until the full number is obtained. If any examination on oath of the jurors is required, it shall be made, and any challenge for cause shall be acted on, and if any jurors shall be excused others shall be called to take their places. When it has been determined that all the jurors stand indifferent in the case, each plaintiff shall at one time exercise his right of peremptory challenge as to such jurors, and after others have been called to take the places of those challenged, and it has been determined that they stand indifferent in the case, shall at one time exercise his right of challenge of such others, and so on until he has exhausted his right of peremptory challenge or has ceased to challenge. Each defendant shall then exercise his right in the same manner. Each plaintiff, if his right of peremptory challenge has not been exhausted, shall then again exercise his right in the same manner, but only as to jurors whom he has not already had opportunity to challenge; and the parties shall likewise exercise the right in turn, until the right of peremptory challenge shall be exhausted or the parties shall cease to challenge. No other challenging, except for cause shown, shall be allowed.

Amended March 21, 1989, effective April 1, 1989.

Rule 7. Openings: Use of Pleadings

(Applicable to all cases as indicated)
The opening statement shall be limited to fifteen minutes, unless the court for cause shown shall extend the time.
The court in its discretion may permit, or in a civil action require, a defendant to make an opening statement of his defense before any evidence is introduced.
The court may order that the pleadings be summarized in an opening statement but not be read to the jury. No reference to the ad damnum shall be made by counsel nor shall pleadings go to the jury except by authorization of the court.

Rule 8. Objections to Evidence

(Applicable to all cases)
In civil actions, pursuant to the provisions of Mass. R.Civ.P. 46, and in criminal actions, pursuant to Mass. R.Crim.P. 22, if a party objects to the admission or exclusion of evidence, he may, if he so desires, state the precise grounds of his objection; but he shall not argue or further discuss such grounds unless the court then calls upon him for such argument or discussion.
Amended June 26, 1980, effective September 1, 1980.

Rule 8A. Notes by Jurors

(Applicable to all cases)
In any case where the court, in its discretion, permits jurors to make written notes concerning testimony and other evidence, the trial judge shall precede the announcement of permission to make notes with appropriate guidelines. Upon the recording of the verdict or verdicts, the notes of the jurors shall be destroyed by direction of the trial judge. Jurors may also be granted permission by the trial judge to make notes during summation by counsel and during the judge's instructions to the jury on the laws.
Adopted effective May 6, 1978.

Rule 9. Motions and Interlocutory Matters

(Applicable to all cases)
All civil motions shall be governed, where applicable, by Superior Court Rules 9A through 9E.

Any criminal motion must be in writing and filed before being placed upon a list for hearing, unless otherwise ordered by the court, or otherwise provided for under Superior Court Rule 61.
In criminal cases the court need not hear any motion, or opposition thereto, grounded on facts, unless the facts are verified by affidavit. No motion to suppress evidence, other than evidence seized during a warrantless search, and no motion to dismiss may be filed unless accompanied by a memorandum of law, except when otherwise ordered by the court.
Amended May 6, 1978, effective June 5, 1978; June 26, 1980, effective September 1, 1980; amended effective March 1, 1985; amended July 18, 1989, effective October 2, 1989; amended October 6, 2004, effective November 1, 2004.

Rule 9A. Motions and Interlocutory Matters

Text below effective April 1, 2014. For earlier rule see :
http://lawlib.state.ma.us/source/mass/rules/superior/sup9a.html

(Applicable to civil cases)
(a) Form of Motions and Oppositions Thereto.
(1) Motions. A moving party shall serve with the motion a separate memorandum stating the reasons, including supporting authorities, why the motion should be granted and may include a request for a hearing. Affidavits and other documents setting forth or offering evidence of facts on which the motion is based shall be served with the motion.
(2) Oppositions to Motions. A party opposing a motion may serve a memorandum in opposition The memorandum in opposition may include a statement of reasons, with supporting authorities, why the motion should not be allowed and may include a request for a hearing. Affidavits and other documents setting forth or offering evidence of facts on which the opposition is based shall be served with the memorandum in opposition.
(3) Reply and Sur-reply Memoranda. A reply memorandum may be filed only with leave of court. Such leave must be sought within 5 days of service of a memorandum in opposition. A reply memorandum shall be limited to addressing matters raised in the opposition that were not and could not reasonably have been addressed in the moving party's initial memorandum. In view of the limitations upon a reply memorandum, a sur-reply is strongly disfavored and may not be filed without leave of court sought within 5 days of service of the reply. To request leave of court, a party shall send a letter to the Session Judge setting forth the grounds to support the request and shall serve the letter on all other parties. If leave is granted, the requesting party shall serve notice of the grant of leave with its reply memorandum or sur-reply.
(4) Facts Verified by Affidavit. The court need not consider any motion or opposition thereto, grounded on facts, unless the facts are verified by affidavit, are apparent upon the record, or are agreed to in writing, signed by interested parties or their counsel.
(5) Format and Length. All motions, memoranda of law and other papers, except for exhibits, filed pursuant to this rule shall be filed on 8 1/2" by 11" paper and, except for exhibits, shall be typed in no less than 12-point type and double spaced, provided that the title of the case, footnotes and quotations may be single spaced. The title of each

document shall appear on the first page thereof. Unless leave of court has been obtained in advance, all memoranda of law and the oppositions thereto shall not exceed 20 pages, and any reply memoranda shall not exceed 10 pages. Any appendix permitted by Superior Court Rule 30A shall not be included in the page limit. To request leave of court, a party shall send a letter to the Justice presiding in the session where the motion will be filed stating the number of pages the party desires, and why the party's objective cannot be achieved within the applicable page limit. The letter shall be served on all other parties. Any leave of court obtained by a moving party shall apply to all opposing parties. The moving party shall serve notice of the grant of leave of court with the moving party's memorandum.
(6) Email Addresses. Each party or attorney filing motion or opposition papers shall include his or her email address on the papers, unless he or she does not have an email address.

(b) Procedure for Serving and Filing Motions.
(1) General. All motions and oppositions shall be served on all parties and filed with the clerk in accordance with the procedure set forth in this Paragraph (b). Compliance with this Paragraph is compliance with the "reasonable time' provisions of the first sentence of Mass R. Civ. P. 5(d)(1).
(2) *Service and Filing of Motions an Oppositions.* The moving party shalt serve a copy of the motion and the other documents specified by this rule on every other party. Every opposing party shall serve on the moving party an original and a copy, and on every other party a copy, of the opposition and the other documents specified by this rule. The opposition to a motion shall be served within (A) 10 days after service of a motion other than a motion for summary judgment, (B) 21 days after service of a motion for summary judgment or (C) such additional time as is allowed by statute or order of the court. If the motion is served by mail, these time periods shall be increased by 3 days pursuant to Mass. R. Civ. P. 6(d). Upon receipt of the opposition and associated documents, if any, the moving party shall attach the original of the opposition and associated documents to the original motion and associated documents and within 10 days shall file with the clerk the combined documents ("the Rule 9A package"), unless within the same 10-day period the moving party notifies all counsel that the motion has been withdrawn. If leave to file a reply memorandum is allowed, the reply shall be served and filed within 10 days of the allowance, unless the court orders otherwise. If leave to file a reply has been allowed, or, if a motion to strike has been served in response to the opposition to a motion or a cross motion, the period for filing the Rule 9A package is extended to the time granted for serving the reply or the opposition to the motion to strike. If the party opposing a summary judgment motion serves an additional statement of material facts under Paragraph (b)(5)(iv), the moving party shall have 21 days to file the Rule 9A package or to notify all counsel that the motion has been withdrawn. If the moving party does not receive an opposition within 3 business days after expiration of the time permitted for service of an opposition, then the moving party shall file with the clerk the motion and other documents initially served on the other parties with an affidavit reciting compliance with this rule and receipt of no opposition in timely fashion, unless the moving party has notified all parties that the motion has been withdrawn. The moving party shall give prompt notice of the filing of the Rule 9A package to all other parties by

serving thereon a copy of a certificate of notice of filing on a separate document. A separate document accompanying the filing shall list the title of each document in the Rule 9A package.
(3) Cross-Motions. A cross motion, accompanied by the other documents specified in Paragraph (a)(1) of this rule, shall be served on the moving party with the opposition to the original motion. A party opposing a cross motion may serve a memorandum in opposition within (A) 10 days after service of a cross motion other than a cross motion for summary judgment, (B) 21 days after service of a cross motion for summary judgment or (C) such additional time as is allowed by statute or order of the court.
(4) Motions to Strike. (i) A motion to strike brought in response to a motion shall be served along with the opposition to the original motion. An opposition to the motion to strike shall be served within 10 days of service of the motion to strike. The motion to strike and the opposition thereto shall be filed with the Rule 9A package relating to the original motion in the manner specified in Paragraph (b)(2) of this rule.
(ii) A motion to strike brought in response to the opposition to the original motion shall be served within 10 days of service of the opposition. An opposition to the motion to strike shall be served within 10 days of service of the motion to strike. The motion to strike and the opposition thereto shall be filed with the Rule 9A package relating to the original motion in the manner specified in Paragraph (b)(2) of this rule. Compliance with the times for service contained herein shall extend the time for filing prescribed in Paragraph (11)(2) of this rule.
(iii) A motion to strike brought in response to a cross motion shall be served along with the opposition to the cross motion. An opposition to the motion to strike shall be served within 10 days of service of the motion to strike. The motion to strike and the opposition thereto shall be filed with the Rule 9A package relating to the original motion and the cross motion in the manner specified in Paragraph (b)(2) of this rule. Compliance with the times for service contained herein shall extend the time for filing prescribed in Paragraph (b)(2) of this rule.
(5) Summary Judgment Motions. (i) A motion for summary judgment shall be accompanied by a statement of the material facts as to which the moving party contends there is no genuine issue to be tried, set forth in consecutively numbered paragraphs, with page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents. Failure to include the foregoing statement shall constitute grounds
for denial of the motion. In addition to the service specified in Paragraph (b)(2) of this rule, the statement of material facts shall be *contemporaneously* sent in electronic form by email to all parties against whom summary judgment is sought in order to facilitate the requirements of the following paragraph. The statement of material facts in electronic form shall be sent as an attachment to an email and shall be in Rich Text Format (RTF) unless the parties agree to use another word processing format.
The requirement to email the statement of material facts to the opposing party does not alter the date or method of service, which continues to be governed by Mass. R. Civ. P. 5(b). The requirement for transmission by email of the statement of material facts in electronic form shall be excused if (A) the moving or any opposing party is appearing pro se, (B) the attorney for the moving party certifies in an affidavit that he or she

does not have access to email, or (C) the attorney for the moving party certifies in an affidavit that an opposing party's attorney has no email address or has not disclosed his or her email address.

(ii) An opposition to a motion for summary judgment shall include a response to the moving party's statement of facts as to which the moving party claims there is no genuine issue to be tried. To permit the court to have in hand a single document containing the parties' positions as to material facts in easily comprehensible form, the opposing party shall reprint the moving party's statement of material facts and shall set forth a response to each directly below the appropriate numbered paragraph, including, if the response relies on opposing evidence, page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents. Where the obligation to send the statement of material facts in electronic form has been excused, the response to the statement of material facts may be in a separate document. For purposes of summary judgment, the moving party's statement of a material fact shall be deemed to have been admitted unless controverted as set forth in this paragraph.

(iii) Neither the statement of material facts as to which there is no genuine issue to be tried nor the response thereto shall be subject to the 20-page limitation in Paragraph (a)(5) of this rule.

(iv) An opposing party, with the response to the moving party's statement of facts, may assert an additional statement of material facts with respect to the claims on which the moving party seeks summary judgment, each to be supported with page or paragraph references to supporting pleadings, depositions, answers to interrogatories, responses to requests for admission, affidavits, or other evidentiary documents. Such an additional statement shall be a continuation of the opposing party's response described in Paragraph (b)(5)(ii), with an appropriate heading, and shall not be a separate document. In addition to the service specified in Paragraph (b)(2) of this rule, where the party opposing summary judgment includes such an additional statement in its response, the response, including the additional statement, also shall be sent in electronic form by email to the moving party, unless excused as provided in Paragraph (b)(5)(i). The moving party shall respond to the opposing party's additional statement of material facts within the time prescribed by Paragraph (b)(2)(B) and in the manner required by Paragraph (b)(5)(ii), resulting in a single document for the court's consideration, unless the obligation to send the additional statement of material facts in electronic form has been excused. For purposes of summary judgment, the opposing party's additional statement of a material fact shall be deemed to have been admitted unless controverted as set forth in this paragraph.

(v) Cross motions for summary judgment and oppositions thereto shall comply with the requirements of Paragraph (b)(5), with the result that there shall be a single consolidated document containing the respective statements of material facts and responses thereto, unless excused as provided in Paragraph (b)(5)(i).

(vi) All exhibits referred to in a motion, a cross motion, or opposition thereto shall be filed as a joint appendix, which shall include an index of the exhibits. The initial moving party, with the cooperation of each opposing party, shall be responsible for assembling the joint appendix and the index. Unless all the pages of the joint appendix are

consecutively numbered, each exhibit shall be separated by an offset tab divider. Where such dividers are used, the exhibits in the joint appendix shall be numbered consecutively. The moving party shall serve a copy of its exhibits to each opposing party with the motion. If a party opposing the initial motion designates additional exhibits, the additional exhibits shall begin with the next consecutive designation following the last designation by the initial moving party. Where an opposing party relies upon any evidence contained in the exhibits supporting the motion for summary judgment, the opposing party in its memorandum shall cite to that evidence using the form of designation of the moving party. Where the opposing party relies upon evidence not contained in such exhibits, the opposing party shall treat such additional evidence as new exhibits. Such new exhibits, as well as an index of the new exhibits, shall be served with the opposition. The initial moving party shall certify that the joint appendix includes all exhibits served upon the initial moving party with the opposition to the summary judgment motion. If the initial moving party does not receive with the opposition an exhibit designated by the opposing party, then the moving party shall file with the clerk the joint appendix of exhibits without that designated exhibit, with the certification required by this rule. The burden will then rest with the opposing party to move to file any designated exhibit not timely submitted.
(vii) The initial moving party, upon filing a motion for summary judgment, shall serve upon the opposing parties, in paper and electronic form, unless electronic form is excused, the consolidated statement of material facts and responses filed with the clerk, unless the response is filed as a separate document in accordance with this rule. The moving party shall also serve upon the opposing parties the joint appendix of exhibits, including the index of the exhibits, filed with the clerk, unless the parties otherwise agree. If the joint appendix of exhibits, including the index, is in electronic form, an electronic copy shall also be sent, unless the parties otherwise agree.
(6) Sanctions for Noncompliance. The court need not consider any motion or opposition that fails to comply with the requirements of this rule.

(c) Hearings on Motions.
(1) Marking. No party shall mark any motion for hearing. In the event that the court believes that a hearing is necessary or helpful to a disposition of the motion, the court will set the time and date for the hearing and will notify the parties of that date and time.
(2) Request for Hearing. A request for a hearing shall set forth any statute or rule of court which, in the judgment of the submitting party, requires a hearing on the motion. After reviewing the motion, the court will decide whether a hearing should be held and, if a hearing is to be held, will notify the parties in accordance with Paragraph (c)(1) hereof. Failure to request a hearing shall be deemed a waiver of any right to a hearing afforded by statute or court rule.
(3) Presumptive Right to a Hearing. Requests for hearings on the following motions will ordinarily be allowed: Attachments (Rule 4.1), Trustee Process (Rule 4.2), Dismiss (Rule 12), Adopt Mastel.'s Report (Rule 53), Summary Judgment (Rule 5G), Injunctions (Rule 65), Receivers (Rule 6G), Lis Pendens (G.L. c. 184, sec. 15). Denial of a request for hearing on such motions will be accompanied by a written statement of reasons for the denial.

(d) Disposition of Motions.

Motions which are not set down for hearing in accordance with Paragraph (c) hereof will be decided on the papers filed in accordance with this rule.

(e) Exceptions.

The provisions of this rule shall not apply to the following motions:

(1) Ex Parte, Emergency, and Other Motions. A party filing an ex parte motion, emergency motion, or motion for appointment of a special process server is excused from compliance with Paragraphs (b)(1) and (b)(2) of this rule. Ex parte motions shall be served within 3 days of a ruling on the motion. Emergency motions shall be served with all parties forthwith upon filing.

(2) Motions Involving Incarcerated Parties. Administrative Directive No. 92 1, which governs civil actions tiled by a plaintiff who is incarcerated, waives that part of subdivision (b)(2) of this rule that requires the filing of the Rule 9A package. Such waiver also shall apply to motions in civil actions where a defendant is incarcerated and appearing pro se, but all parties, incarcerated or not, must serve copies upon all other parties in the case.

Adopted July 21, 1988, effective October 3, 1988. Amended July 18, 1989, effective October 2, 1989; December 6, 1989, effective January 31, 1990; December 17, 1991, effective March 1, 1992; December 10, 1993, effective January 1, 1994; February 24, 1998, effective April 1, 1998; October 6, 2004, effective November 1, 2004; January 22, 2009, effective March 2, 2009; October 24, 2012, effective January 1, 2012; September 24, 2013, effective January 1, 2014; February 20, 2014, effective April 1, 2014.

Rule 9B. Certificates of Service

(Applicable to civil cases)

The last page of every paper served in accordance with Mass.R.Civ.P. 5(a) shall contain a brief statement showing the date on which and manner in which service of the paper was made on each other party. The statement may be in the following form:

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each (other) party by mail (by hand) on (date). (Signature).

Adopted July 18, 1989, effective October 2, 1989.

Rule 9C. Settlement of Discovery Disputes

(Applicable to all civil cases)

Counsel for each of the parties shall confer in advance of serving any motion under Mass. R. Civ. P. 26 or 37 and make a good faith effort to narrow areas of disagreement to the fullest extent. Counsel for the party who intends to serve the motion shall be responsible for initiating the conference, which conference shall be by telephone or in

person. All such motions shall contain a certificate stating that the conference required by this Rule was held, together with the date and time of the conference and the names of all participating parties, or that the conference was not held despite reasonable efforts by the moving party to initiate the conference, setting forth the efforts made to speak by telephone or in person with opposing counsel. Motions unaccompanied by such certificate will be denied without prejudice to renew when accompanied by the required certificate.

Adopted July 18, 1989, effective October 2, 1989. Amended October 6, 2004, effective November 1, 2004. Amended June 15, 2007, effective October 1, 2007.

Rule 9D. Motions for Reconsideration

(Applicable to Civil Cases)

Motions for reconsideration shall be served and processed consistent with Rule 9A. Such motions seeking reconsideration of motions made pursuant to Mass. R. Civ. P. 50(b), 52(b), 59(b), 59(e) or 60(b) are considered made or served for purposes of those rules on the date of service pursuant to Rule 9A.

Additionally, the words "Motion for Reconsideration" shall appear clearly in the title of the motion. Upon filing, the clerk shall transmit the motion and supporting papers to the Justice who decided the original motion. If, upon reviewing the motion and supporting documents, the Justice who decided the original motion desires to hold a hearing on the motion for reconsideration, he or she may schedule a hearing thereon. Alternatively, he or she may refer the motion for reconsideration to the Regional Administrative Justice for the region where the case is pending.

Adopted December 6, 1989, effective January 81, 1990.

Amended October 6, 2004, effective November 1, 2004

Rule 9E. Motions to Dismiss and Post-Trial Motions

(Applicable to all civil cases.)

Motions to dismiss pursuant to Mass. R. Civ. P. 12 are subject to Rule 9A. Because such motions often are the initial filing in response to a complaint, counterclaim or cross-claim, in order to avoid the entry of a default for failure to respond in a timely fashion, a party responding by a motion to dismiss must serve the motion on all parties pursuant to Superior Court Rule 9A(b)(2) and, in a timely manner, must also file with the court a simple "Notice of Motion to Dismiss" reciting the title of the motion and the date of its service on the parties.

Post-trial motions pursuant to Mass. R. Civ. P. 50, 52, 59 and 60 are subject to Rule 9A. A party serving any such motion must serve the motion on all parties pursuant to Superior Court Rule 9A(b)(2) and, in a timely manner, must also file with the court a simple "Notice of Motion" reciting the title of the motion and the date of its service on the parties.

Amended October 6, 2004, effective November 1, 2004.

Rule 10. Extra Charges by Officers

(Applicable to all cases)
When any officer claims extra compensation in serving a precept, the same shall not be allowed unless the officer return with his precept a bill of particulars of the expenses, with his affidavit that such expenses were actually incurred, and that the charges are reasonable.

Rule 11. Attorney not to Become Bail or Surety

(Applicable to all cases)
No attorney shall become bail or surety in any criminal proceeding in which he is employed, or in any civil action or proceeding whatever in this court except as an endorser for costs.

Rule 12. Attorneys as Witnesses

(Applicable to all cases)
No attorney shall be permitted to take part in the conduct of a trial in which he has been or intends to be a witness for his client, except by special leave of the court.

Rule 13. Hospital Records

(First paragraph applicable to civil actions only; remainder of rule applicable to all cases)
Any party, or his attorney, in any action for personal injuries, may file an application for an order for a copy of any hospital records of a party, together with a copy of the proposed order and an affidavit that he has notified the other party, or his attorney, of his intention to file said application seven days at least prior to said filing and that he has not received any objections in writing thereto. The order shall issue as of course upon the receipt of such application.
When a hospital record, or any part thereof, is received in evidence, the record shall be returned to the hospital upon the conclusion of the trial unless the court otherwise orders.
If the court orders the retention of the hospital record, it shall remain in the custody of the clerk, who shall give a receipt therefor. The record shall be released to the hospital, upon the giving of a receipt to the clerk.

Rule 14. Exhibits Other Than Hospital Records

(Applicable to all cases)
Exhibits other than hospital records, which are placed in the custody of the clerk shall be retained by him for three years after the trial or hearing at which they were used, subject to an order of confiscation or destruction, unless sooner delivered to the parties or counsel to whom they respectively belong or by whom they were respectively presented or introduced. If in doubt as to the party or counsel entitled to delivery, the clerk may require an agreement of parties or counsel or order of the court, before delivery. The clerk may destroy or discard such exhibits, but not earlier than thirty days after notice by the clerk to the party presenting or introducing such exhibits, requesting him to remove them, nor earlier than three years after such trial or hearing.

Rule 15. Eliminating Requirement for Verification by Affidavit

(Applicable to all cases)
No written statement in any proceeding in this court required to be verified by affidavit shall be required to be verified by oath or affirmation if it contains or is verified by a written declaration that it is made under the penalties of perjury.

Rule 16. Writ of Protection

(Applicable to all cases)
A writ of protection shall issue only upon the application of the person for whom the writ of protection is to be issued, or some person in his behalf, and upon order of the court, and then only in case it is made to appear to the court, by affidavit and any other evidence that the court may require, (1) that the application is made in good faith and for the purpose of enabling such person to attend this court as a party or witness in some specified case pending, (2) if such person is a party, that such case has not been brought collusively to enable him to obtain a writ of protection, and (3) if such person is a witness, that he has not been required to attend as a witness by his own request or procurement to enable him to obtain a writ of protection.

Rule 17. Recording Devices

(Applicable to all cases)
No person shall use or have in his possession or under his control in the chambers or lobby of a justice or justices of the court, or in any courtroom or other place provided for a hearing or proceeding of any kind on any action or matter pending before the court, or before any master, arbitrator, or any other person appointed by the court, any mechanical, electronic or other device, equipment, appliance or apparatus for recording,

registering or otherwise reproducing sounds or voices, unless prior authorization for such use or possession is granted by the justice then having immediate supervision of such courtroom or other place. Every order granting such authorization shall be upon condition that no such recording or reproduction may be used to impeach, discredit or otherwise affect the authenticity or accuracy of the record of such action or proceeding or of the transcript therein made by the official court reporter.

Special Provisions for Civil Actions

Rule 18. Costs and Terms

(Applicable to civil actions)
In allowing an amendment, removing a default or dismissal, granting a postponement, or making any other interlocutory order, costs may be awarded and terms imposed in the discretion of the court, in addition to any otherwise provided for in these rules.

Rule 19. Entry of Action [Repealed effective January 1, 2015.]

Rule 20. Restraining Order. Injunction [Repealed effective January 1, 2015.]

Rule 21. Postponement. Costs

(Applicable to civil actions)
When a case is postponed on the motion of one party, against the objection of the other, the granting of the motion may be upon the condition precedent that the moving party shall pay to the adverse party all his costs and such expenses as the court may allow incurred at the same session or upon the same short list in procuring the attendance of witnesses, unless (a) the motion is granted because of unfair or improper conduct of the adverse party, or (b) the moving party shall have given notice of such motion and the grounds thereof in such season as might have prevented the attendance of the witnesses, or (e) the moving party did not discover the grounds of the motion in season to give such notice. The costs and expenses thus paid shall not be included in the bill of costs of the party receiving them.

This rule shall not prevent an adverse party, receiving notice of such motion, from procuring the attendance of his witnesses, if he shall think fit to oppose the motion, or from including the costs for such witnesses in his bill of costs if he shall prevail in the case, even though such motion be granted.

Rule 22. Money Paid into Court

(Applicable to civil actions)
Money paid into court shall be in the custody of the clerk, whose duty it shall be to receive it when paid under the authority of law or rule or order of the court. Any deposit of money in excess of five hundred dollars ($500.) paid into court shall be deposited in an interest bearing bank account. He shall pay it as directed by the court, but money paid into court upon tender or otherwise for the present and unconditional use of a party, shall be paid, on request, without special order, with any interest which has accrued thereon, to such party, at whose risk it shall be from the time when it is paid into court. Mo*n*ey payable to a party may be paid to his attorney of record, if authorized by the court.

Rule 23. [Interlocutory Hearings, General Provision]

Repealed effective January 1, 2015.

Rule 24. [Verdicts]

Repealed effective January 1, 2015.

Rule 25. [Application of Verdict to Counts]

Repealed effective January 1, 2015.

Rule 26. [Motions for Judgment Notwithstanding the Verdict and for New Trial. Hearing. Costs]

Repealed effective January 1, 2015.

Rule 27. [Pre-Trial]

Repealed effective January 1, 2015.

Rule 28. [Deleted]

Deleted July 21, 1988, effective October 8, 1988.

Rule 29. Cover Sheet; Statement as to Damages

(Applicable to civil actions)
1. Cover Sheets.

No Clerk-Magistrate shall accept for filing any Complaint or other pleading which commences a civil action unless accompanied by a civil action cover sheet completed and signed by the attorney or pro se party filing such pleading. The civil action cover sheet shall be in a form approved by the Chief Administrative Justice in consultation with the Chief Justice of the Superior Court.
2. Duty of the Plaintiff.

Upon the cover sheet provided for in paragraph one above, the plaintiff or his counsel shall set forth, where appropriate, a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(c).
3. Duty of the Defendant.

Should the defendant believe the statement of damages filed by the plaintiff is in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.
4. Limitation.

A statement of money damages filed pursuant to this rule shall not constitute a judicial admission nor may it be admitted in evidence.
5. Power of the Court.

(a) Should it appear from the statement or statements of damages filed as provided above, or from any subsequent amendments thereto, that there is no reasonable likelihood that recovery will exceed twenty-five thousand dollars ($25,000) if the plaintiff prevails, then the court of its own motion, without prior notice to the parties, shall transfer the action for trial as provided in sub-paragraph (c) below.

(b) Should it appear to the court during the hearing of any motion or other pre-trial event of any nature whatsoever that there is no reasonable likelihood, notwithstanding the representations made in any statement of damages, that recovery will exceed twenty-five thousand dollars ($25,000) then the court of its own motion, after advising counsel of the same and affording a summary hearing thereon, may transfer the action for trial as provided in sub-paragraph (c) below.

(c) An action shall be transferred pursuant to this rule (i) to the court from which such action was previously removed, if any; (ii) if such action was originally entered in the Superior Court to any District Court, including the Boston Municipal Court, in which it could have been brought under the provisions of G. L. c. 223, s. 2; or (iii) as directed by the Chief Administrative Justice.

Amended effective November 1, 1974; May 8, 1976; amended January 9, 1979; amended effective August 1, 1984; March 25, 1986; November 17, 1986.

Rule 30. Interrogatories

(Applicable to civil actions)

Except as otherwise provided by special or standing order, interrogatories may be served within one year after the entry of an action or within such further time as the court may allow.

Each answer to an interrogatory, or objection thereto, shall be preceded by the interrogatory to which it responds.

An application for dismissal or judgment for failure to serve timely answers to original interrogatories, as permitted by Mass.R.Civ.P. 33(a), shall contain a statement showing the date on which such interrogatories were served and that the provisions of the applicable rules of civil procedure and of this court have been complied with; and such an application relating to failure to serve further answers shall set out the date on which the further answers should have been served. The application shall be verified by affidavit or as provided in Mass.R.Civ.P. 33(a) or 43(d).

Amended July 21, 1988, effective October 3, 1988.

Rule 30A. Motions for Discovery Orders

(Applicable to civil cases)

All motions arising out of a party's response to an interrogatory or request for admission or arising out of a party's response to, or asserted failure to comply with, a request for production of documents shall be accompanied by a brief. With respect to each interrogatory or request at issue, the brief shall set forth separately and in the following order (1) the text of the interrogatory or request, (2) the opponent's response and (3) an argument. Alternatively, the text of the interrogatory or request and the opponent's response and (3) an argument. Alternatively, the text of the interrogatory or request and the opponent's response may be contained in an appendix to the brief.

Adopted July 18, 1989, effective October 2, 1989. Amended December 10, 1993, effective January 1, 1994.

Rule 30B: Certification of Expert Disclosures

In addition to the signature of the party, every disclosure called for by Mass. R. Civ. P. 26(b)(4)(A)(i) regarding any expert who is retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony and whose testimony is to be presented at trial shall be signed by the expert so disclosed. The signature by the expert is a certification that the disclosure accurately states the subject matter(s) on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion to which the expert is expected to testify at trial.

As added October 24, 2012, effective January 1, 2013.

Rule 31. [Dismissal of Old Actions]

Repealed effective January 1, 2015.

Rule 32. Certain Appearances Prohibited

(Applicable to civil actions)
The attorney for the plaintiff shall not appear or act for a trustee summoned in trustee process; or for a defendant in matters involving interpleader (Mass. R.Civ.P. 22) or in a proceeding to obtain a declaratory judgment or relief (Mass.R.Civ.P. 57).

Rule 33. [Trial and Hearing Lists]

Repealed effective January 1, 2015.

Rule 34. Engagements of Counsel

(Applicable to civil actions)
No party shall have a right to a postponement of a trial because of engagement of counsel or for the convenience of counsel or parties, but the court will grant a postponement if counsel is actually engaged before the Supreme Judicial Court or the Appeals Court and may grant a postponement because of engagement of counsel for not more than ten days or until said engagement is concluded.

No other postponement shall be granted to the same counsel except for good cause arising subsequent to the granting of the postponement.

Rule 35. [Certificates of Readiness and Trial Lists]

Repealed effective January 1, 2015.

Rule 36. [Preference on Trial Lists with Jury in Certain Counties Having More Than One Shire Town]

Repealed effective January 1, 2015.

Rules 37., 38., 39., 40., 41. and 42. [Deleted]

Deleted July 21, 1988, effective October 3, 1988.

Rule 43. [Hearing in One County of Cases from Another]

Repealed effective January 1, 2015.

Rule 44. [Hearing in Suffolk of Cases From Other Counties]

Repealed effective January 1, 2015.

Rule 45. [Hearing in Hampden of Cases from Berkshire, Franklin and Hampshire]

Repealed effective January 1, 2015.

Rule 46. [Repealed]

Repealed effective January 1, 1981.

Rule 47. Filing of Papers Upon Judgment

(Applicable to civil actions)
A bill of exchange, promissory note, check, trade acceptance, certificate of deposit or any negotiable instrument, shall be filed with the clerk before judgment thereon shall be entered or execution issued, unless the court otherwise orders.
Such instrument shall not be withdrawn from the files, except upon (1) order of the court, (2) the making of the clerk of a memorandum on such instrument, if practicable, and otherwise on a paper attached thereto, showing the name of the court, the county, the number of the case, the date of judgment, the party or parties against whom judgment was rendered, and the amount thereof, and (3) the filing of a copy of such instrument attested by the clerk.

Rule 48. [Judgments and Decrees after Default for Failure to Appear in Civil Actions]

Repealed effective January 1, 2015.

Special Provisions relating to Masters, Receivers and Arbitrators

Rule 49. Masters

(See Mass.R.Civ.P. 53)
1. Order of Reference.

A master shall be appointed by an order of reference which, after the usual heading, shall be in substantially the following form,
unless the court otherwise orders, and shall specifically refer the master to Section 4 of this Rule regarding forfeiture of compensation for failure to file his/her report seasonably.
NON-JURY ACTION
Order of Reference to Master

Ordered that this action be referred to _____ as Master for the conduct of proceedings pursuant to Mass.R.Civ.P. 53 and Superior Court Rule 49.
The Master shall make findings of fact and conclusions of law, and set them forth in his/her report, including all subsidiary findings of fact upon each issue.
He/she need not make findings on damages if he/she determines that there was no liability. Hearings shall begin on or before _____, 19__, and:
a. shall end on or before _____, 19__, or
b. shall proceed from day to day, Saturdays, Sundays, and holidays excepted, until completed.
The report shall be filed on or before _____, 19__.
The Master is referred to Section 4 of Superior Court Rule 49 regarding forfeiture of compensation for failure to file his/her report seasonably.
By the Court (_____, J.)
Clerk
ENTERED:
JURY ACTION
Ordered that this action be referred to _____ as Master for the conduct of proceedings pursuant to Mass.R.Civ.P. 53 and Superior Court Rule 49.
The Master shall make findings of fact, with subsidiary findings of fact on each issue, including the issue of damages whatever the determination of liability.
Hearings shall begin on or before _____, 19__, and:
a. shall end on or before _____, 19__, or
b. shall proceed from day to day, Saturdays, Sundays, and holidays excepted, until completed.
The report shall be filed on or before _____, 19__.
The Master is referred to Section 4 of Superior Court Rule 49 regarding forfeiture of compensation for failure to file his/her report seasonably.
By the Court (_____ J.)
Clerk
ENTERED:
2. Compensation.

(a) Compensation of masters, for services performed after July 1, 1985 shall be allowed at the rate of fifty dollars ($50.00) an hour of attendance in a hearing room at the direction of the court, and of actual hearing and preparation of report. In the determination of the court a master may be allowed compensation not exceeding two hours at the rate specified above when an action is disposed of without the necessity of; attendance at court; or an actual hearing, or preparation of a report. Every master's bill shall be itemized as to dates, hours, and services and shall state the name of the justice who ordered the reference.
(b) If a master's report is not filed within the time provided by Mass. R. Civ. P. 53(g)(2) or any enlargement thereof, unless the court shall otherwise order, the appointment of the master shall be vacated automatically and the master shall be held to have forfeited his/her compensation.

3. Engagement.

An engagement in actual hearing before a master shall have the same standing as an engagement in actual trial before the court, but no protective order for counsel or the master shall issue save by order of the Chief Justice of the Superior Court.

4. Filing of Master's Report; Enlargement of Time; Forfeiting Compensation.

(a) Pursuant to Mass. R. Civ. P. 53(g)(2), the court may enlarge the time for filing the master's report, but only if the master files a written statement of good and substantial reasons for such enlargement. The justice authorizing an enlargement shall forthwith file with the clerk a statement of his/her reasons for so doing.

(b) if a master's report is not filed within the time specified by Mass. R. Civ. P. 53(g)(2) or any enlargement thereof, the master's appointment shall, unless the court otherwise orders, lapse automatically, and the master shall be held to have forfeited his/her compensation.

5. Supervision of Master.

The clerk shall keep a docket upon which shall be entered every case referred to a master. The court may call such docket or any part thereof at any time.

In cases referred to a master in which a statement by the referring or another justice is required by this Rule or Mass. R. Civ. P. 53, the clerk shall enter upon such docket the following:

(a) the statement by the referring justice as to the special reasons why the case was referred to a master not upon the Standing List.

(b) the statement by the objecting party containing the grounds for objecting to the persons appointed as master; and

(c) the statement by the justice granting an enlargement of time for the filing of the report of a master containing the reasons why the enlargement has been granted.

In each case referred to a master in which a justice or objecting party has filed a statement of reasons or objections in accordance with the provisions of this Rule or Mass. R. Civ. P. 53, the clerk shall report in summary written form to the Chief Justice, quarterly, the name of the case, the nature of the case, the name of the master appointed, and the statements of the referring or other justice or party which are of record.

The clerk shall place upon the list for hearing upon motions and other interlocutory matters, at the session for or including civil business without jury within the county to be held on or next after the first Monday of March and the first Monday of September in every year, every case in which the appointment of a master was made more than four months before such first Monday and his/her report has not been filed. The list shall state the name of such master, the date of his/her appointment, and the reason for placing the case upon said list. The clerk shall mail such list to the parties and such officer. Such cases shall be called at such session.

At any call of such docket or of such cases or at any other time, the court may make any order deemed proper to promote justice and prevent delay, including an order that

the case proceed without regard to engagements of counsel, and an order removing such master.
6. Special Masters.

The Chief Justice of the Superior Court or a justice of the court with the approval of the Chief Justice may appoint a special master to deal with administrative or other special matters. His/her compensation shall be paid at the rate provided in section 2 of this Rule.
Amended effective May 8, 1976; amended May 6, 1978, effective July 1, 1978; June 26, 1980, effective September 1, 1980; amended effective January 1, 1983; July 1; 1985.

Rule 50. Exhibits (Master's Cases)

(Applicable to civil actions)
The clerk's office shall accept into the care and custody of the clerk, all exhibits which have been offered before a master during the course of a hearing and duly marked at said hearing by said master.
Said exhibits must be presented in the clerk's office by said master personally. Appropriate notations and cross references will be made in the exhibit record book, and upon the docket to this effect.
The master will be required to fill out an exhibit record card in the clerk's office when depositing exhibits. Rule 14 shall govern.

Rule 51. Receivers

(Applicable to civil actions)
Every receiver, within thirty days after his appointment, shall file a detailed inventory of the property of which he has possession or the right to possession, with the estimated values thereof, together with a list of the encumbrances thereon; and also a list of the creditors of the receivership and of the party whose property is in the hands of the receiver, so far as known to him.
Every receiver shall file, not later than the fifteenth day of February of each year, a detailed account under oath of his receivership to and including the last day of the preceding year, substantially in the form required for an account by a conservator in the probate courts, together with a report of the condition of the receivership. He shall also file such further accounts and reports as the court may order.
When an attorney at law has been appointed a receiver, no attorney shall be employed by the receiver or receivers except upon order of court, which shall be made only upon the petition of a receiver, stating the name of the attorney whom he desires to employ and showing the necessity of such employment.
No order discharging a receiver from further responsibility will be entered until he has settled his final account.

Upon application for appointment of a receiver, the party seeking the receiver shall pay into Court the sum of $500.00, or such other amount as the Court may allow, for the use of the receiver when appointed to guarantee his or her expenses, disbursements and compensation. No process on the application for appointment of a receiver shall issue before payment of said sum. The Clerk shall pay said sum to the receiver when appointed and the receiver shall account for the disposition thereof in his or her required accountings. If the application for appointment of a receiver is denied, the Clerk shall repay to the plaintiff, or the plaintiff's attorney, the sum so deposited.
Amended effective September 3, 1991; amended June 24, 2009, effective July 1, 2009.

Rule 52. [Reference to Arbitration. Award; Objections and Recommittal]

Repealed effective January 1, 2015.

Special Provisions for Criminal Cases

Rule 53. Assignment of Counsel

(Applicable to criminal cases)
1. All Cases.

If any party appears in the court in a matter in which the laws of the Commonwealth or the rules of the Supreme Judicial Court establish a right to be represented by counsel, the judge shall follow the procedures established in Supreme Judicial Court Rule 3:10.
2. Murder Cases.

Upon the determination by a judge that a person accused of murder in the first or second degree is to be provided counsel by the Committee for Public Counsel Services pursuant to Supreme Judicial Court Rule 3:10 and G.L. c. 211D, s. 8, the clerk shall notify the chief counsel of the Committee for Public Counsel Services for purposes of the assignment of the case to either the Public Counsel Division or Private Counsel Division, subject to the approval of the justice making the determination of indigency.
Amended effective May 8, 1976; October 22, 1977; amended May 6, 1978, effective July 1, 1978; amended effective January 1, 1981; November 17, 1986.

Rule 54. Experts in Criminal Cases

(Applicable to criminal cases)
The court will not allow compensation for the services of an expert or expert witness for the defense in a criminal case unless an order of the court or a justice, naming such expert or expert witness and authorizing his employment, was made before he was employed. Such order shall not be made without notice to the district attorney in charge of the case, and an opportunity to be heard.

Rule 55. Experts in Criminal and Delinquent Children Cases

(Applicable to criminal cases and cases of delinquent children)
The court will not allow compensation as an expert witness to a salaried medical examiner or a salaried physician of a penal institution or place of detention unless it appears by the certificate of the district attorney that he has testified as an expert.
The court will allow no fee to a salaried physician of a penal institution or place of detention for making an examination into the mental condition of a person held in custody therein or for a report or medical certificate as to such condition.

Rule 56. Conditions of Probation

(Applicable to criminal cases)
The conditions of probation, unless otherwise prescribed, shall be as follows: That the defendant shall (1) comply with all orders of the court, including any order for the payment of money, (2) report promptly to the probation officer as required by him, (3) notify the probation officer immediately of any change of residence, (4) make reasonable efforts to obtain and keep employment, (5) make reasonable efforts to provide adequate support for all persons dependent upon him, and (6) refrain from violating any law, statute, ordinance, by-law or regulation, the violation whereof is punishable. Any other condition shall be presumed to be in addition to the foregoing.

Rule 57. Term of Probation

(Applicable to criminal cases)
The term of probation, unless otherwise prescribed, shall be until the regular sitting for or including criminal business within the county appointed to begin next after the expiration of the following periods after the day on which the defendant is placed on probation namely:-in cases under G.L. Chapter 273, five years and eleven months; and in other cases, eleven months. At the end of the term of probation, the probation officer shall make a written report to the court of the result of probation, which shall be filed in

the case, and, if the court shall order, the probation officer shall bring the defendant before the court for an extension of probation or for other disposition.

Rule 58. Term of Orders for Payment

(Applicable to criminal cases)
Orders for payment under G.L. Chapter 273, unless otherwise prescribed, shall be in force for six years from the day when made.

Rule 59. Waiver of Indictment

(Applicable to criminal cases)
The form for an application to waive indictment under the provisions of G.L. Chapter 263, s. 4A shall be as follows:
COMMONWEALTH OF MASSACHUSETTS
_____ ss. _____ 19__

COMMONWEALTH
v.
_____

APPLICATION TO WAIVE INDICTMENT
To the Honorable the Justices of the Superior Court:
Respectfully represents said defendant that on _____ 19__ he
(committed)
was (bound over) for trial in the Superior Court under the
(complained of)
provisions of (G.L. c. 218 s. 30)
(G.L. c. 219 s. 20)
(St.1934 c. 358)
by the (_____ Court of _____
(_____) (Hon. _____,_ Trial (Justice
(_____)(_____
(District Attorney for the
(_____)(_____ District
upon a complaint numbered _____ of 19__ charging him with a crime not punishable by death; that he desires to waive indictment upon said charge and now applies for leave to waive such indictment and for prompt arraignment on such complaint.

_____

I hereby consent to the foregoing application.

_____
District Attorney for the _____
District.

Approved
By the Court _____ Clerk.

Rule 60. Plea of Not Guilty

(Applicable to criminal cases)
A plea of not guilty, whether voluntarily made by the defendant or entered by order of the court, shall not be deemed to be a waiver of matters in bar or abatement or an admission of the validity of the indictment or complaint. A defendant at the time of the entry of such plea, or within ten days thereafter or within such further time as the court may order, may file such motions and other pleadings relating to matters in bar or abatement or to the validity of the indictment or complaint as he may desire without at any time retracting the plea of not guilty.
Lack of jurisdiction or the failure of the indictment or complaint to charge an offense may be raised at any time during the pendency of the proceedings.

Rule 61. Motions for Return of Property and to Suppress Evidence

(Applicable to criminal cases)
Motions for the return of property and motions to suppress evidence shall be in writing, shall specifically set forth the facts upon which the motions are based, shall be verified by affidavit, and shall otherwise comply with the requirements of Mass.R.Crim.P. 13.
Such motions shall be filed within seven days after the date set for the filing of the pre-trial conference report pursuant to Mass.R.Crim.P. 11(a)(2), or at such other time as the court may allow.
Amended June 26, 1980, effective September 1, 1980.

Rule 61A. Motions for post-conviction relief

(Applicable to criminal cases)
(A) Contents of the Motion. Motions for post-conviction relief filed under Mass.R.Crim.P. 30 shall contain (1) an identification by county and docket number of the proceeding in

which the moving party was convicted, (2) the date the judgment of conviction entered, (3) the sentence imposed following conviction and (4) a statement of the facts and grounds on which the motion is based. The motion shall also contain (5) a statement identifying all proceedings for direct review of the conviction and the orders or judgment entered and (6) a statement identifying all previous proceedings for collateral review of the conviction and the orders or judgments entered.
(B) Docket of Proceedings and Transmission of Papers. After docketing, the Clerk shall attach to all such motions a copy of the docket of the proceedings that resulted in the conviction and shall forward the motion, and accompanying papers, to the Justice who presided at the trial from which the conviction resulted and to the office of the District Attorney or to the Attorney General responsible for prosecuting the case. If the Justice who presided at the trial has retired, or is otherwise unavailable, the Clerk shall forward the motion and accompanying papers to the Regional Administrative Justice for the county in which the conviction occurred.
(C) Action on Motions. Motions that do not comply with the requirements of paragraph (A) hereof may be summarily denied, without prejudice to renewal when filed in accordance with those requirements. For all motions that do comply with the requirements of paragraph (A), the court may direct the Commonwealth to file and serve an opposition, or may act thereon in the manner it deems appropriate and as authorized by Mass. R. Crim. P. 30.
Adopted February 9, 2001, effective March 1, 2001.

Rule 62. Appearance

(Applicable to criminal cases)
An attorney who, before the return day, has entered an appearance in behalf of a defendant in a criminal case in the Superior Court, may withdraw his appearance within fourteen days after the return day, provided that the attorney who shall represent the defendant at trial files an appearance simultaneously with such withdrawal. An attorney shall not withdraw his appearance otherwise, except by express leave of court.
Amended June 26, 1980, effective September 1, 1980.

Rule 63. Court Reporter in Grand Jury Proceedings

(Applicable to criminal cases)
Stenographic notes of all testimony given before any grand jury shall be taken by a court reporter, who shall be appointed by a justice of the superior court and who shall be sworn. Unless otherwise ordered by the court, the court reporter shall furnish transcripts of said notes only as required by the district attorney or attorney general.

Rule 64. Appellate Division. Procedure and Forms

(Applicable to criminal cases)

Appeals to the appellate division, under G.L. Chapter 278, as amended, shall be signed by the person sentenced, on forms herein established to be furnished by the clerk.

Upon the imposition of a sentence which may be reviewed, the clerk shall forthwith advise the person sentenced of his right, within ten days to appeal to the appellate division for a review of the sentence or sentences imposed, notwithstanding that the execution of such sentence or sentences is stayed pending appeal or suspended with a term of probation, and shall make an entry on the docket that the person has been so advised.

The clerk shall forthwith notify the justice who imposed the sentence, of any appeal, and likewise shall notify the appellate division of any appeal.

If new process issues as a result of action by the appellate division, it shall recite the original sentence, sentences or disposition and set forth any amendment thereof.

The clerk of the appellate division shall send notice of the final action by the appellate division to the appellant, the superintendent of the correctional institution in which the appellant is confined, the clerk of the court in which judgment was rendered, the justice who imposed the sentence appealed from and the chief justice.

The appellate division shall hear appeals for the review of sentences only in those cases in which a claim of appeal has been filed within ten days after the date of the imposition of sentence.

The forms for appeal under the provisions of G.L. Chapter 278, Section 28B, shall be as follows:

COMMONWEALTH OF MASSACHUSETTS

_____ ss. Superior Court

No. _____

COMMONWEALTH

v.

_____

APPEAL FROM SENTENCE TO

MASSACHUSETTS CORRECTIONAL INSTITUTION, CEDAR JUNCTION

The defendant hereby appeals to the Appellate Division of the Superior Court for a review of a sentence to the Massachusetts Correctional Institution, Cedar Junction, imposed in the Superior Court sitting within and for the County of _____ by Justice _____ on the _____ day of _____, 19__.

_____

Signature of Defendant

_____, 19__

Note

This appeal must be filed within ten days of imposition of sentence.

In cases in which a sentence was imposed in accordance with a recommendation agreed to by or on behalf of the defendant, the Appellate Division will not normally hold a hearing but will consider the appeal solely on the basis of the record.
COMMONWEALTH OF MASSACHUSETTS

_____ ss. Superior Court
No. _____

COMMONWEALTH
v.
_____

APPEAL FROM SENTENCE OF MORE THAN

FIVE YEARS TO MASSACHUSETTS

CORRECTIONAL INSTITUTION, FRAMINGHAM

The defendant hereby appeals to the Appellate Division of the Superior Court for a review of a sentence to the Massachusetts Correctional Institution, Framingham, imposed in the Superior Court sitting within and for the County of _____ by Justice _____ on the _____ day of _____, 19__.

_____

Signature of Defendant

_____, 19__

Note
This appeal must be filed within ten days of imposition of sentence.
In cases in which a sentence was imposed in accordance with a recommendation agreed to by or on behalf of the defendant, the Appellate Division will not normally hold a hearing but will consider the appeal solely on the basis of the record.
Amended effective July 1, 1986.

Rule 65. Claim of Appeal

(Applicable to criminal cases)
After imposing judgment and sentence in a case which has gone to trial on a plea of not guilty, the judge or clerk shall forthwith advise the defendant of his right to appeal, and the clerk shall execute a statement in writing to that effect.
The clerk shall have no duty to advise the defendant of any right of appeal after sentence is imposed following a plea of guilty or nolo contendere.
Defendant's counsel shall be responsible for perfecting and prosecuting the appeal unless such counsel is relieved of that responsibility, after a hearing on counsel's motion to withdraw.
An appeal under General Laws Chapter 278, Section 28 shall be claimed within thirty days after the judgment from which the appeal is taken.
Amended October 22, 1977, effective January 1, 1978; May 30, 1990, effective July 1, 1990.

Rules 66. And 67. [Repealed]

Repealed effective September 1, 1980.

Rule 68. Arguments

(Applicable to criminal cases)
In trials of criminal cases the arguments of each party shall be limited to thirty minutes; but the court may reasonably reduce or extend the time.

Rule 69. Examination of Witnesses

(Applicable to criminal cases)
Unless otherwise permitted by the court, the examination and cross-examination of each witness shall be conducted by one counsel only for each party, and the counsel shall stand while so examining or cross-examining.

Rule 70. Requests for Instructions or Rulings

(Applicable to criminal cases)
Requests for instructions or rulings in trials or hearings with or without jury shall be made in writing before the closing arguments unless special leave is given to present requests later.
The question whether the court should order a verdict shall be raised by a motion, and not by a request for instructions.

Rule 71. Depositions -- Commissions

(Applicable to criminal cases so far as depositions may be taken by statute. See G.L. c. 277, secs. 76-71)
Editor's Note:
G.L. c. 277, s.s. 76-77 were repealed by St.1979, c. 344, s. 42, an emergency act, approved June 30, 1979, and by s. 51 made effective July 1, 1979. For derivation and subject matter of the repealed sections, see M.G.L.A. c. 277, s.s. 74-77.
Upon application by a defendant, the court will grant commissions to take the depositions of witnesses residing out of the Commonwealth. Such a defendant may, on application to the clerk, obtain a commission, directed to any commissioner appointed by the governor of the Commonwealth to take depositions in any other of the United States, or to any justice of the peace, notary public or other officer legally empowered to take depositions or affidavits in the state or country where the deposition is to be taken, or to such other person as the court may order. Unless otherwise ordered, such depositions shall be taken upon interrogatories filed by such defendant, and upon cross-interrogatories, if any, filed by the Commonwealth, which interrogatories and cross-interrogatories shall be annexed to the commission. Such defendant shall file his interrogatories in the clerk's office, give notice thereof to the Commonwealth, with a copy of the interrogatories, and file an affidavit of such notice in the clerk's office. The cross-interrogatories, if any, shall be filed within seven days after the giving of such notice, or within such further time as the court may order, and a copy shall be given to such defendant. When a deposition is taken and certified by any person as an officer or person to whom the commission was directed, if it shall be objected that such person was not the one to whom the commission was directed, the burden of proof shall be on the party so objecting. But if an objection be made to the authority of a person taking the deposition without such commission, the burden of proof of such authority shall be on the party producing the deposition.

Rule 72. Deposition – Manner of Taking

(Applicable to criminal cases so far as depositions may be taken by statute. See G.L. c. 277, secs. 76-77)
Editor's Note
G.L. c. 277, s.s. 76-77 were repealed by St.1979. c. 344, s. 42, an emergency act, approved June 30, 1919, and by s. 51 made effective July 1, 1979. For derivation and subject matter of the repealed sections, see M.G.L.A. c. 277, s.s. 74-77.
Where a deposition is taken on interrogatories, the commissioner shall take such deposition in a place separate and apart from all other persons, and shall permit no person to he present, during such examination except the deponent himself, and such disinterested person, if any, as he may think fit to appoint as a clerk or stenographer to assist him in reducing the deposition to writing. The commissioner shall permit no

person to communicate by interrogatories or suggestions with the deponent while giving his deposition. The commissioner shall put the several interrogatories and cross-interrogatories to the deponent in their order, and shall take the answer of the deponent to each, fully and clearly, before proceeding to the next; and shall riot read to the deponent, nor permit the deponent to read, a succeeding interrogatory, until the answer to the preceding has been fully taken down. The clerk, on issuing a commission to take a deposition on interrogatories, shall insert the substance of this rule therein; or shall annex this rule, or the substance thereof, to the commission, by way of notice and instruction to the commissioner.
Depositions shall be opened and filed by the clerk when received.

Special Provisions for Certain Other Proceedings

Rule 73. [Naturalization]

Repealed effective January 1, 2015.

Rule 74. [Motor Vehicle Liability Policy Appeals]

Repealed effective January 1, 2015.

Rule 75. [Procedure in Election Petitions]

Repealed effective January 1, 2015.

Special Provisions for Divorce Cases

Rule 76. Divorce Proceedings

(Includes cases of divorce and proceedings for the annulment or affirmation of marriage)

The applicable statutes and the rules of the Probate Court shall apply to divorce proceedings and proceedings for the annulment or affirmation of marriage brought in this court.

Rule 77. Trial Lists of Divorce Cases in Suffolk

(Applicable to cases of divorce and proceedings for the annulment or affirmation of marriage in Suffolk)
The divorce list in Suffolk will be taken up in a divorce session at such times as the chief justice may designate, precedence being given to uncontested cases unless the court otherwise orders. Cases may be placed upon the list for the divorce session in Suffolk in the manner provided for the placing of cases on the list in counties other than Suffolk by Rule 37, and motions and other interlocutory matters in cases on the divorce docket in Suffolk may be placed upon the list for hearing thereon at the divorce session in Suffolk in the manner provided for the placing of such matters on the list in counties other than Suffolk by Rule 38.